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Cherokee Indians, Memorial of John Ross, & hers, complaining of injuries done them, & praying r redress. 31p., caption title. 23d Cong., 1st sess., n. Doc. 386. 1834

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MEMORIAL

OF

JOHN ROSS, AND OTHERS,

Delegates from the Cherokee Indians, complaining of injuries done them, and praying for redress.

MAY 20, 1834.

Referred to the Committee on Indian Affairs, and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the Cherokee nation, by their delegates duly appointed for that purpose, to wit, John Ross, principal chief of the nation, Richard Taylor, Daniel McCoy, Hair Conrad, and John Timson,

RESPECTFULLY SHOWETH:

That they approach your honorable bodies as the representatives of the people of the United States, entrusted by them, under the constitution, with the exercise of their sovereign power, to ask for protection of the rights of your memorialists, and redress of their grievances. They respectfully represent that their rights, being stipulated by numerous solemn treaties which guarantied to them protection, and guarded, as they supposed, by laws enacted by Congress, they had hoped that the approach of danger would be prevented by the interposition of the power of the Executive charged with the execution of treaties and laws; and that when their rights should come in question, they would be finally and authoritatively decided by the judiciary, whose decrees it would be the duty of the Executive to see carried into effect. For many years, these their just hopes were not disappointed. The public faith of the United States, solemnly pledged to them, was duly kept in form and substance. Happy under the parental guardianship of the United States, they applied themselves assiduously and successfully to learn the lessons of civilization and peace, which, in the prosecution of a humane and Christian policy, the United States caused to be taught to them. Of the advances they have made under the influence of this benevolent system, they might a few years ago have been tempted to speak with pride and satisfaction, and with grateful hearts to those who have been their instructors. They could have pointed with pleasure to the houses they had built, the improvements they had made, the fields they were cultivating; they could have exhibited their domestic establishments,

and shown how, from wandering in the forests, many of them had become the heads of families, with fixed habitations, each the centre of a domestic circle like that which forms the happiness of civilized man. They could have shown, too, how, with the arts of industry, human knowledge and letters had been introduced amongst them, and how the highest of all the knowledge had come to bless them, teaching them to know and to worship the Christian's God, bowing down to him at the same seasons, and in the same spirit with the millions of his creatures who inhabit christendom, and with them embracing the hopes and promises of the gospel. But now, each of these blessings has been made to them an instrument of the keenest torture. Cupidity has fastened its eye upon their lands and their homes, and is seeking by force, and by every variety of oppression and wrong, to expel them from their lands and their homes, and to tear them from all that has become endeared to them. Of what they have already suffered, it is impossible for them to give the details, as they would make a history. Of what they are menaced with by unlawful power, every citizen of the United States who reads the public journals is aware.

In this their distress they have appealed to the judiciary of the United States where there rights have been solemnly established. They have appealed to the Executive of the United States to protect these rights according to the obligations of treaties, and the injunctions of the laws. But this appeal to the Executive has been made in vain. In the hope that, by yielding something of their clear rights, they might succeed in obtaining security for the remainder, they have lately opened a correspondence with the Executive, offering to make a considerable cession from what had been reserved to them by solemn treaties, only upon condition that they might be protected in the part not ceded. Of this correspondence, a copy is respectfully annexed as part of their memorial. But their earnest supplication has been unheeded, and the only answer they can get informs them, in substance, that they must be left to their fate, or renounce the whole. What that fate is to be, unhappily is too plain.

The State of Georgia has assumed the jurisdiction over them, has invaded their territory, has claimed the right to dispose of their lands, and has actually proceeded to dispose of them, reserving only a small portion to individuals, and even these portions are threatened, and will no doubt soon be taken from them. Thus the nation is stripped of its territory, and individuals of their property, without the least color of right, and in open violation of the guarantee of treaties. At the same time, the Cherokees, deprived of the protection of their own government and laws, are left without the protection of any other laws, outlawed as it were, and exposed to indignities, imprisonment, persecution, and even to death, though they have committed no offence whatever, save and except that of seeking to enjoy what belongs to them, and refusing to yield it up to those who have no pretence of title to it. Of the acts of the Legislature of Georgia, your memorialists will endeavor to furnish copies to your honorable bodies: and of the doings of individuals, they will furnish evidence if required. And your memorialists further respectfully represent that the Executive of the United States has not only refused to protect your memorialists against the wrongs they have suffered, and are still suffering, at the hands of unjust cupidity, but has done much more. It is but too plain that, for several years past, the power of the Executive has been exerted on the side of their oppressors,

and is co-operating with them in the work of destruction. Of two particulars in the conduct of the Executive, your memorialists would make mention not merely as matters of evidence, but as specific subjects of complaint, in addition to the more general ones already stated.

The first of these is the mode adopted to oppress and injure your memorialists under color of enrolments for emigrations. Unfit persons are introduced as agents. Acts are practised by them that are unjust, unworthy, and demoralising, and have no object but to force your memorialists to yield and abandon their rights by making their lives intolerably wretched. They forbear to go into particulars, which, nevertheless, they are prepared, at a proper time, to exhibit.

The other is calculated also to weaken and distress your memorialists, and is essentially unjust. Heretofore, until within the last four years, the money appropriated by Congress for annuities has been paid to the nation, by whom it was distributed and used for the benefit of the nation. And this method of payment was not only sanctioned by the usage of the Government of the United States, but was acceptable to the Cherokees. Yet without any cause known to your memorialists, and contrary to their just expectations, the payment has been withheld for the period just mentioned on the ground, then for the first time assumed, that the annuities were to be paid not as hitherto to the nation, but to the individual Cherokees, each his own small fraction, dividing the whole according to the numbers of the nation. The fact is, that for the last four years the annuities have not been paid at all. The distribution in this new way was impracticable, if the Cherokees had been willing thus to receive it: but they were not willing. They have refused, and the annuities have remained unpaid. Your memorialists forbear to advert to the motives of such conduct, leaving them to be considered and appreciated by Congress. All they will say is, that it has coincided with other measures adopted to reduce them to poverty and despair, and to extort from their wretchedness a concession of their guarantied rights.

Having failed in their efforts to obtain relief elsewhere, your memorialists now appeal to Congress, and respectfully pray that your honorable bodies will look into their whole case, and that such measures may be adopted as will give them redress and security. And they will pray, &c.

JNO. ROSS.
R. TAYLOR.
DANL. McCOY.
his
HAIR × CONRAD.
mark.
JOHN TIMSON.

WASHINGTON CITY, *May* 17, 1834.

An act to authorize the taking of the census in the several counties composing the Cherokee circuit, and to require his Excellency the Governor to pay over the poor school fund belonging to each county.

Be it enacted by the Senate and House of Representatives of the State of Georgia in General Assemby met, and it is hereby enacted by the authority aforesaid, That it shall be the duty of the justices of the inferior court in the counties of Cass, Cherokee, Cobb, Floyd, Forsyth, Gilmer,

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Lumpkin, Murray, Paulding, and Union, which have been created since the last census was taken, to appoint one fit and proper person in their respective counties to take a full and accurate census or enumeration of the free white population; and the person so appointed shall make his return to the clerk of the inferior court of the county in which he shall be appointed, on or before the first day of April next.

And be it further enacted, That so soon as the census or enumeration shall have been taken and returned as required by this act, it shall be the duty of the inferior court to forward a certified copy of the same to his excellency the Governor; and it shall be the duty of his excellency the Governor to pay to the several counties named in this act an equal portion, according to their white population, of the poor school fund appropriated for annual distribution among the several counties of this State.

And be it further enacted, That the person appointed to take the census or enumeration shall receive the compensation, and be governed in the performance of their duty by the provisions contained in an act passed the twenty-sixth day of December, eighteen hundred and twenty-six, except so much as militates against the provisions of this act.

And be it further enacted, That all laws or parts of laws militating against this act be, and the same are hereby, repealed.

THOMAS GLASCOCK,
Speaker of the House of Representatives.
JACOB WOOD,
President of the Senate.

Assented to, December 21, 1833.

WILSON LUMPKIN, *Governor.*

An act more effectually to provide for the government and protection of the Cherokee Indians residing within the limits of Georgia, and to prescribe the bounds of their occupant claim; and also to authorize grants to issue for lots drawn in the late Land and Gold Lotteries in certain cases, and to provide for the appointment of an agent to carry certain parts thereof into execution; and to fix the salary of such agent; and to punish those persons who may deter Indians from enrolling for emigration.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the State of Georgia in General Assembly met, and it is hereby enacted by the authority of the same,* That in all cases where a white man is the head of an Indian family, such Indian family shall retain the rights of such property claimed under the rights of such Indian family, the white man obtaining no rights but that of the Indian use and occupation.

Sec. 2. *And be it further enacted,* That every white man who may have an Indian family, and who may be desirous of retaining his privileges which he may possess as the head of an Indian family, may, at any time before the first day of March next, notify the clerk of the superior court of the county in which he may reside, in writing, of his intention to retain his privileges as the head of such Indian family; which notification shall be recorded in a book to be kept for that purpose, and no other; and upon the doing of which he shall be entitled to all the privileges which are granted to such white men in the preceding section of this act.

SEC. 3. *And be it further enacted*, That if any Indian or descendant of an Indian, or white man the head of an Indian family, claiming the privileges of an Indian, shall employ any white man, or slave belonging to a white man, or person of color other than the descendant of an Indian, as a tenant-cropper, or assistant in agriculture, or as a miller or millwright, they shall, for such offence, upon the same being established by the testimony of two respectable witnesses, forfeit all right and title that they may have to any reservation or occupancy within the limits of this State; and that, upon the certificate of the agent to be hereafter appointed, grants may issue for the same as though such improvement had never been occupied by such Indian, descendant of an Indian, or white man having an Indian family.

SEC. 4. *And be it further enacted*, That where any Indian or descendant of an Indian, or white man having the privileges of an Indian, shall have two or more wives, any of whom shall reside on farms separate and apart from the usual abode of such Indian, or descendant of an Indian, or white man having the privileges of an Indian, she or they shall be held and considered the sole proprietor of such farm, together with the slaves (if any) usually employed in cultivating the same; and, that if she or they shall enrol for emigration, shall have exclusive and absolute control thereof.

SEC. 5. *And be it further enacted*, That if any Indian, or others enjoying the privileges of an Indian, shall enroll for emigration, and shall afterwards refuse to emigrate at the time stipulated: *Provided*, The agent of the United States shall be in readiness to remove them to Arkansas, *and provided also*, That such neglect shall not be occasioned by act of Providence, or other unavoidable cause; he or they shall, for such neglect or refusal, forfeit all right to any future occupancy within the limits of this State.

SEC. 6. *And be it further enacted*, That no Indian, or others having the privileges of an Indian, shall, under any pretence whatever, set up any claim or demand against any member of the same tribe, after such member shall have enrolled his or her name for emigration, so as to deter such emigrant from removing at the time stipulated; and where the claim shall be preferred against any property which may be in the possession of the individual emigrating, the agent, as aforesaid, shall be competent to decide on the merits of the claim: *Provided*, That nothing herein contained shall be so construed as to prevent the claimants from prosecuting his claim hereafter, and in the country to which such Indian, or person having the privileges of an Indian, shall emigrate.

SEC. 7. *And be it further enacted*, That no contract, either verbal or written, alleged to have been made between a white man and an Indian, shall be binding, except the same can be established by the testimony of at least two respectable witnesses.

SEC. 8. *And be it further enacted*, That no Indian, or the descendant of an Indian, or others having the privileges of an Indian, shall be allowed more than one hundred and sixty acres, which shall consist of the lot including his dwelling-house, or, if in a district where the lots contain but forty acres, he or they shall be allowed the lot including his or her house, and as many others as he may have improvements on, not exceeding three; and in both cases they shall be allowed such improved land as may be within any other lot adjoining thereunto, which he or they may have actually enclosed, and improved previous to the twenty-fifth December, eighteen hundred and thirty, and all the residue of such lots as are not entirely allowed as above may be occupied by the drawer, his or her legal representative.

Sec. 9. *And be it further enacted*, That if any Indian or Indians, or any person claiming to be an Indian, or the descendant thereof, or any Indian countryman, their aiders, abettors, or assistants, who shall obstruct or resist by force or threats the peaceable possession by the drawer thereof, or any person claiming under him, her, or them, of any tract or lot of land, not herein allowed to such Indian, such offender shall be guilty of a high misdemeanor, for which he, she, or they may be indicted, and, on conviction, shall be punished by imprisonment, at the discretion of the court.

Sec. 10. *And be it further enacted*, That where any lot drawn in the late land and gold lottery shall be partly within an improvement which has been valued and paid for by the United States, and partly within the improvement of an Indian occupant, it shall be the duty of the agent as aforesaid, upon the drawer of such lot, or his or her legal representative, producing to the said agent a certificate signed by his excellency the Governor, showing that such lot was drawn by him or her, immediately to place the drawer, or his or her representative, in possession of so much thereof as may lie within the limits of such valued improvement, and forthwith to remove any intrusion thereon which might be calculated to prevent the peaceable possession of the same.

Sec. 11. *And be it further enacted*, That his excellency the Governor is hereby authorized, where satisfactory evidence is produced to him, to cause grants to issue for all lots which by this act may be specially designated, upon the application of the drawer, or his or her representative.

Sec. 12. *And be it further enacted*, That his excellency the Governor is hereby authorized to cause grants to issue for all lots which have been drawn in the late land and gold lottery, where they may lie within or touch upon the improvement of any Indians or descendant of an Indian, or others having the privileges of an Indian, who, under any of the treaties concluded between the United States and the Cherokee tribe of Indians, have been allowed a reservation in fee simple, whether the said reserve shall have been located in this State or elsewhere; and also for all such lots as may have been drawn as aforesaid, and which may lie within or touch upon the improvement of any descendant of an Indian who was allowed a reservation in fee simple as aforesaid: *Provided*, Such descendant of an Indian shall not have been twenty-one years of age at the time his or her parents perfected such reservation; also, for all lots which lie within, or touch upon, the improvement of an Indian, or others having the privileges of an Indian, that in any treaty as aforesaid shall have been allowed a reservation for life, and who has removed therefrom, and settled within the limits of Georgia, and for all lots which may lie within or touch upon any improvement occupied by any Indian, descendant of an Indian, or white man having the privilege of an Indian, who shall have heretofore enrolled for emigration, and shall have received in consequence of such enrolment, any money or other valuable consideration, and also for all lots drawn as aforesaid, and which may be within or touch upon the improvement of any Indian or descendant of an Indian, or any white man having the privileges of an Indian, and who, in any of the land lotteries authorized by this State, shall have drawn therein any lot or lots; also, for all lots which may be within or touch upon the improvements of any Indian, descendant of an Indian, or white man having the privileges of an Indian, which have been sold, leased or rented, contrary to the existing laws of this State.

Sec. 13. *And be it further enacted,* That his excellency the Governor is hereby authorized to appoint some fit and proper person as agent, whose duty it shall be to see that the provisions of this act be duly and effectually carried into operation, and to examine and report to his excellency the Governor such lots having Indian improvements thereon, and subject to be granted by this act, who shall receive one thousand dollars per annum as a full compensation for his services; and who shall take and subscribe the following oath, to wit: "I, A. B. do solemnly swear that I will perform the duties of Indian agent in the Cherokee Territory, according to the provisions of this act regulating the Cherokee Indians in the possession of their persons and property, without favor or partiality, to the best of my abilities: so help me God." And he shall give bond and sufficient security, in the sum of two thousand dollars, for the faithful performance of the duties required of him by this act, and shall be subject to prosecution before the superior court in any county where he shall violate or neglect to perform the duties required of him as agent aforesaid; and, on conviction thereof, he shall be removed from office, and be fined at the discretion of the court.

Sec. 14. *And be it further enacted,* That if any person shall, by threats, menaces or otherwise, deter or prevent any Indian or Indians from enrolling for emigration, he or they shall be held and deemed guilty of a misdemeanor; and, on conviction thereof, shall be find in a sum not less than one hundred dollars, nor more than five hundred dollars, or undergo an imprisonment in the penitentiary, at the discretion of the court.

Sec. 15. *And be it further enacted,* That all laws and parts of laws militating against this act, and the act appointing special agencies for the counties, be, and the same are hereby, repealed.

THOMAS GLASCOCK,
Speaker of the House of Representatives.
JACOB WOOD,
President of the Senate.

Assented to 20th December, 1833:
WILSON LUMPKIN, *Governor.*

Brown's Hotel, Washington City,
January 28, 1833.

Sir: Having exhibited before you the authority under which we have been delegated by the Cherokee nation to visit the seat of Government, we will now take occasion to lay before you, for the consideration of the President, a brief view of the existing state of things in relation to our national affairs, and also to make known the feelings of the Cherokee people. In doing so, it is not deemed necessary to go into a detailed narrative of the numerous circumstances attending the facts, nor are we disposed to enter into a prolix discussion of the justice and merits of those rights for which we have so earnestly sought the interposition of the protecting arm of the General Government.

It is sufficient to state that it has been the lot of our nation to differ in opinion with the constituted authorities of this Government in regard to that system of policy having for its object the general removal of all the Indian tribes west of the river Mississippi; and that it has been our misfortune to find the President of the United States entertaining views adverse to ours

upon the question of those rights which our nation claims, and heretofore have peaceably enjoyed from time immemorial, and which have been solemnly recognized by the treaties now existing with the United States.

In the course of these events, the State of Georgia assumed to herself the right to extend and exercise jurisdiction over all that portion of our territory called "the chartered limits of Georgia." The nature and effects of the laws adopted by her Legislature to operate upon our people are well known. Our nation being strenuously opposed to a change of location, and the officers of the Government having withheld the enforcement of the intercourse act of Congress, and the treaties for our protection, our nation was driven to the necessity of employing counsellors-at-law for asserting our legal rights before the courts of the United States; and we have had the consolation, amidst our difficulties, to see that we have not been deceived in the opinion entertained of those rights, when the supreme judicial tribunal of the country decided that the laws of Georgia extending jurisdiction over our territory are repugnant to the laws, treaties, and constitution of the United States, and were null and void. Yet with deep regret have we witnessed and felt the illegal proceedings of Georgia with increasing severity, at the same time the protecting arm of the Federal Government withdrawn, and the annuity stipend due to our nation by treaties withheld, and from the mere claim of the right to exercise jurisdiction.

The right of surveying, disposing of, and occupying our lands by force, have since been asserted by Georgia, and measures are now in train for the consummation of the unjust deed.

In this peculiar state of affairs, our nation, in the summer of the last year, received through your department certain propositions from the President, containing the basis upon which the Government was willing to negotiate a treaty for our territory east of the Mississippi. And, in reply thereto, the General Council of the nation informed the President that the sentiments of the Cherokee people on that subject remained the same as has before been expressed, and that the basis of his propositions was objectionable, and that, owing to the peculiar state of things, the nation was in duress; but let him remove all the difficulties complained of, and to afford that necessary protection which had been solemnly guarantied in our treaties, and then the exercise of that privilege which is so essential to freedom would place the nation in a condition to reflect, speak, and act freely, &c. &c. Some time thereafter, a letter directed to "the Cherokees east of the Mississippi," from Mr. Robb, the chief clerk of your department, was received through the agent, acknowledging the receipt of this letter; and who stated that you was then at that time on a tour to Lake Erie, and to which place the letter had been forwarded, and that no doubt you would reply to it; but no further communication from you has since been received.

Mr. Chester, however, under instructions from the department, attended our General Council in October last, and urged a reconsideration of the same propositions which had before been submitted and replied to; and who, as you have been apprised, was given to understand that a delegation would be appointed to attend to the business of the nation before the Government of the United States, on all subjects relating to its interests.

Now, in the discharge of the duties entrusted to us, we ask leave to say that, notwithstanding the various perplexities which the Cherokee people have experienced under the course of policy pursued towards our nation, they are unshaken in their objections to a removal west of the river Missis-

sippi; and on the question of our rights and the justice of our cause their minds are equally unchangeable. However, we are *fully sensible* that *justice* and *weakness* cannot *control* the *array* of *oppressive power;* and when we anticipate the calamitous effects of such *power,* we do not fail to see with equal clearness that a removal, under existing circumstances, beyond that "father of rivers" in the west, would but produce consequences no less fatal.

Therefore, we can never consent to be the instrument of a suicidal act to our nation's welfare and happiness. The dilemma of this momentous problem, then, must devolve upon the justice, the magnanimity, and the honor of this great republic, to decide the ultimate issue.

At our interview, the President as well as yourself, took occasion to express deep solicitude on the part of the Government to adjust the difficulties which so much disturb the peace and tranquillity of our nation. Here, you will please to allow us to repeat the expression of a corresponding desire on the part of our nation; and, at the same time, to take the liberty of suggesting for the consideration of the President, whether it would not be practicable for the Government to satisfy the claims of Georgia through the individuals of the State who may have drawn lots of lands in our territory in the lotteries of that State, by granting them other lands of the United States lying within the limits of the Territories and States of the Union, or in some other way. We would respectfully ask you further to state fully the views and disposition of the President, how far, and in what manner, is he disposed to put a final end to the difficulties created by Georgia with our nation; and also, if the annuity due to our nation will not now be directed to be paid over to us as heretofore. Likewise, please to inform us what disposition has been made of the lands reserved under the treaty of 1819 for the purpose of raising a school fund for our nation; and if sold, to state the amount of the proceeds, and also the application made of the same.

With considerations of respect,

We have the honor to be, sir,

Your obedient servants,

JOHN ROSS.
RICHARD TAYLOR.
JNO. F. BALDRIDGE.
JOSEPH VANN.

The Hon. LEWIS CASS, *Secretary of War.*

DEPARTMENT OF WAR,
February 2, 1833.

GENTLEMEN: Your letter of the 28th ult. was received to-day, and has been submitted to the President. His views I shall proceed to communicate to you.

I have already said to you in conversation, and I now repeat in writing, that the President looks with great anxiety and solicitation to your situation. Without entering into any historical summary of the events which have led to the existing state of things, it is enough for our present purposes to know that your position is an embarrassing one, and that a change is called for by every consideration of present convenience and of future security. And

I have no hesitation in saying that the Government is very desirous of entering into a satisfactory arrangement, by which all your difficulties will be terminated, and the prosperity of your people fixed upon a permanent basis. I am well convinced, however, these objects can only be attained by a cession of your possessory rights in Georgia, and by your removal to the country west of the Mississippi; nor can I foresee any cause of apprehension, as you do, that such removal will be injurious either in its immediate or remote consequences. A mild climate, a fertile soil, an inviting and extensive country, a government of your own, adequate protection against other Indians and against our own citizens, pecuniary means amply sufficient for your removal, subsistence and comfortable establishment, and for such purposes of general concern as may appear necessary. All these, within the limits of a reasonable expectation, are freely offered to you; and I cannot, therefore, see that the subject presents itself in the melancholy light in which you view it.

Immense numbers of our own citizens, if similarly situated, would be happy to accept these offers. I trust you will on reflection come to the conclusion that the course now indicated is not only the best for your people, under the circumstances in which they are placed, but that, under much more prosperous circumstances, it would not be an unfortunate one.

The President's message to the Senate of February 22d, 1831, has been already communicated to you. That message entered so freely into the subject of the existing relations between the Indian tribes and the States in which they reside, that any further answer did not seem necessary to your letter, declining to accept the propositions made to you last season.

The whole views of the Government had been previously made known to you, and nothing could have been gained by continuing the correspondence after your positive refusal to accept, as the basis, the offers which have been made to you.

Mr. Chester, as you correctly state, was authorized to attend your council, and to communicate the wishes of the department. He did so, but the result was fruitless.

I do not see that any practicable plan could be adopted by which the reversionary rights held under the State of Georgia could be purchased upon such terms as would satisfy the Government in entering into a stipulation to that effect, nor would it at all remove the difficulties and embarrassments of your condition. You would still be subject to the laws of Georgia, surrounded by our settlements, and exposed to all those evils which have always attended the Indian race when placed in immediate contact with the white population. It is only by removing from these that you can expect to avoid the fate which has swept away so many Indian tribes. Certainly some sacrifices may well be encountered in effecting this object; but I trust and believe they will be slight and temporary. The greatest sacrifices will be made by those of your people who are the most intelligent, and have made the most comfortable provision for themselves in their present residence. To the great body of your tribe, I am convinced the change would be immediately beneficial. Our accounts from the Cherokees west of the Mississippi are most encouraging. A report from the commission now in that country states that the Cherokees will have twenty-five thousand bushels of corn to dispose of, after reserving enough for their own consumption; and that their condition and prospects are truly fortunate.

I presume that each of the individuals composing this delegation is among the small portion of the tribe which is comfortably established in Georgia.

I may appeal to their better feelings whether a transfer of their residence, essential as it is to the existence of their people, ought not to be cheerfully made under existing circumstances; whether the inducements now held out, both of a pecuniary and of a political character, are not sufficient to justify every one of your people in entering into the arrangements which have been proposed? Certain it is, that, with a year's subsistence provided after their arrival west of the Mississippi, and with the other aid which has been promised, there is not a Cherokee of mature age, and in a state of health, who could not provide comfortably for his support.

You request me to inform you what are the views and disposition of the President relating to your affairs? I do not know that I can answer you this question more fully than by referring you to the propositions already submitted to your tribe. The President is anxious to close all the difficulties with you, to provide for your removal and establishment in the west, and to stipulate for such pecuniary considerations as may appear to be just. All this has been fully indicated to you; and I am instructed to say that I am prepared to enter into a negotiation with you, and to conduct it in a spirit of liberal justice, and with a strong desire that it may terminate successfully

With respect to your annuities, I would observe that there are none withheld from you. The Government has engaged to pay certain annuities to the Cherokees. Whether these shall be paid to persons representing the tribe or to the individuals composing it, as the treaties do not provide, the Government is at liberty to determine. It has long been the practice, in other quarters of the country, to pay the annuities to all the persons who attend to receive them, looking to the fund as a joint one, to be divided in equal proportion by the agents of the Government, who can thus see that there is a just distribution, and that individuals are protected in their rights who could not protect themselves. This practice has been recently extended to all the tribes, and the President sees no reason why it should be departed from. In the treaty concluded with the Creeks in this place, in March last, a stipulation was inserted, at their request, that their annuities should be paid in such manner as the tribe might direct. They have since directed that the annuities should be paid to the chiefs, and they have so been paid. Such a provision, if you wish it, might be inserted in any arrangement entered into with you.

Your inquiry concerning the school fund under the treaty of 1819, will be answered by the Commissioner of Indian Affairs as soon as the necessary information can be collected.

In conclusion, permit me to remark that, should you be disposed to accept, as a basis, the propositions which have been made to you, and to enter into an arrangement accordingly, I must request that the necessary details may be arranged in personal interviews, and not by a written correspondence. My time is so occupied that I cannot adopt the latter mode. To expedite business, I am willing to meet you any evening, and to discuss the subject, and to devote every evening to it until the matter is finished.

Very respectfully, I am, gentlemen,

Your obedient servant,

LEWIS CASS.

Messrs. JOHN ROSS, R. TAYLOR, JOHN F. BALDRIDGE, JOSEPH VANN.

Brown's Hotel,

Washington City, February 14, 1833.

Sir: Your's, in reply to our's of the 28th ultimo, communicating the views of the President, has been maturely deliberated; and, in duty to our nation, we feel ourselves bound to respond to the same. We are told "that the President looks with great anxiety and solicitation to our situation; that he knows our position is an embarrassing one, and that a change is called for by every consideration of present convenience and future security; and that the Government is desirous of entering into a satisfactory arrangement, by which all our difficulties will be terminated, and the prosperity of our people fixed upon a permanent basis. Yet we are assured that you are well convinced these objects can only be *attained* by a cession of our possessory rights in Georgia, and by our removal to the country west of the Mississippi; that you can foresee no cause of apprehension, as we do, that such removal will be injurious either in its immediate or remote consequences. A mild climate, a fertile soil, an inviting and extensive country, a government of our own, adequate protection against other tribes and against your own citizens, within a reasonable expectation, are freely offered to us: you cannot, therefore, see that the subject presents itself in the melancholy light in which we view it." You have also referred to the President's message to the Senate, of February 22d, 1831 to show his views on the subject of the existing relations between the Indian tribes and the States in which they reside. In reviewing the principles upon which these views are predicated, we have been impelled to look into those upon which the primitive and conventional rights of the Cherokee nation have been recognized and established by the solemn acts of this Government. And it is with deep regret and great diffidence we are constrained to say that, in this scheme of Indian removal, we can see more of expediency and policy to get rid of them than to perpetuate their race upon any permanent fundamental principle. Were it possible for you to be placed, or to imagine yourself for a moment to be, in the peculiar situation in which we stand, with the existing treaties and laws, and the subsequent acts of the Government, all before your eyes, you cannot but see and feel as we do. It is impossible, then, for us to see that, by a removal to the country west of the Mississippi, all our difficulties would be terminated, and the prosperity of our people fixed upon a permanent basis.

Would not a removal to the country west of the Mississippi, upon lands of the United States, by the Indian tribes, under the provisions of the act of Congress, denationalize their character as distinct communities? By what tenure would such tribes occupy the lands to be assigned to them? Is not the fee-simple title vested in, and will be retained by, the United States? What kind of a government of their own, then, is it designed for them to establish? And how is it possible for the United States to afford them more adequate protection against your own citizens there than where we are? These questions have never as yet been definitively settled down upon any fundamental law of Congress that we know of; and we cannot avoid believing that the present system of policy towards the Indians is founded upon contingencies growing out of the interests and desires of the States, without regarding the permanent prosperity and happiness of the Indians. We intend no reflection upon the Government in thus frankly communicating our views;

but we deem it essential to a perfect understanding of the subject. As to the climate, soil, and extent of country, to which you have alluded, and the future prospects of the Cherokees who are living there, our people are correctly informed on those points from personal observations, and otherwise: withal, they have no wish to remove there. What, then, would be the consequence of a whole nation of people, driven by the force of necessity to leave their native land for a distant one in a strange and an inhospitable region, and there to experience the sad effects of injured disappointments?—to what source could they seek indemnity for their injuries, and what tribunal will there redress their wrongs? For, in vain will our nation have appealed to the protecting arm of the General Government to fulfil treaty obligations, to shield our suffering people against illegal encroachments; and in vain will your supreme judicial tribunal have declared a verdict in favor of our nation against the exercise of usurped power on the part of State authority.

In the suggestion which we took the liberty to submit for the consideration of the President, that some practicable arrangements might be entered into between the United States and Georgia to relieve our nation of its present embarrassments, we had entertained no doubt that, with a corresponding desire on the part of the General Government, such an arrangement could be effected; and, in that event, that Georgia would not be permitted to subject our people to the obedience of her laws, in as much as the Supreme Court of the United States had already pronounced the exercise of her jurisdiction over our territory and people to be unconstitutional and void; and we are at a loss to see the grounds you have taken in arriving at the opinion that "we would still be subject to the laws of Georgia."

We cannot subscribe to the correctness of the idea which has so frequently been recurred to by the advocates of Indian removal, that the evils which have befallen and swept away the numerous tribes that once inhabited the old States are to be traced to the *mere* circumstance of their contiguity to a white population; but we humbly conceive that the true causes of their extinction are to be found in the catalogue of *wrongs* which have been heaped upon their ignorance and credulity by the superior policies of the white-man, when dictated by avarice and cupidity. You appeal to our better feelings in regard to the situation of our people, and suggest that, under existing circumstances, some sacrifices may well be encountered in removing from a contact with a white population in order to escape the fate which has swept away so many Indian tribes Should the doctrine that Indian tribes cannot exist contiguously to a white population prevail, and they be compelled to remove west of the States and Territories of this republic, what is to prevent a similar removal of them from there for the same reason? We can only plead, let equal justice be done between the red and the white man; and that so long as the faith of contracts is preserved inviolate, there will be no just cause for complaint, much less for aggressions on the rights of the one or the other; and that so far as our (individual) sense of right, justice, and honor, will dictate to us a course to meet the wishes, the interest, and the permanent prosperity and happiness of our nation, that no pecuniary sacrifices or human sufferings, ever so great, can or will deter us from encountering them.

Contrary to treaty stipulations, and the intercourse act of 1802, there are numerous white families who have intruded upon the lands of our nation

within the chartered limits of the several adjoining States; and the repeated complaints made of the same to the agent have not been regarded, and the trespassers, instead of being removed, have greatly increased in numbers, and are daily multiplying. We are constrained to bring this grievous subject before the department, that the evil be corrected. In addition to these, there are others who threaten to overrun and dispossess our nation of its territory under the sanction of State authorities. Under the assumption of the right to exercise jurisdiction, it is known that Georgia has passed legislative acts to survey and draw a lottery for the occupation of our lands, and which, in part, have been carried into effect; and, without the timely interposition of this Government, will doubtless rob us of our lands. Can this be permitted, or will the President extend the constitutional arm of the Government to save us from this impending calamity? His determination upon this delicate and important question we most respectfully solicit. Also, if we are to understand from your communication that the propositions submitted through Mr. Chester, and which have been rejected by the General Council of our nation, as containing the only basis upon which the Government will relieve our nation of the injustice of State oppressions. On the subject of our annuities, you reply, "that none are withheld from us;" that the Government has engaged to pay certain annuities to the Cherokees, whether these are to be paid to persons representing the tribe, or the individuals composing it, as the treaties do not provide. The Government is at liberty to determine. The view you have taken of this subject is at variance with the true intent and meaning of those treaties, as all the former practice of the Government in relation thereto will show.

The United States of America, through their commissioner plenipotentiary, entered into certain treaties with the chiefs, headmen, &c., of the Cherokee nation, who were duly authorized and empowered by said nation; and, in consideration for sundry cessions of lands, there are certain annuities stipulated in those treaties to be paid to the Cherokee nation. And the usual practice of the Government in paying those annuities has always been through the United States' agent to the authorities of the Cherokee nation, and by them disposed of as the Legislative Council thereof think fit to direct for the public welfare. Upon the complaints of certain discontented chiefs of the upper Cherokee towns to the Government, Mr. Jefferson, the then President of the United States, on the 4th day of May, 1808, spoke to them in writing thus—"You complain that you do not receive your proportion of the annuities we pay your nation; that the chiefs of the lower towns take for them more than their share. My children, this distribution is made by the authority of the Cherokee nation, and according to their own rules, over which *we have* no control. We do our duty *in delivering* the annuities to the *headmen* of the nation, and we pretend to no authority over them; to no right of directing how they are to be distributed."

For the last thirteen years the Cherokee nation have had a treasurer, and into whose hands the annuities have been paid by the agents of the United States; and, for the faithful performance of the duties assigned to his office, the treasurer has executed a bond, with ample securities, in the penal sum of fifty thousand dollars. The annuities due for the two last years the agent has refused to pay them over to the treasurer as usual, notwithstanding the written request of the great mass of our people to do so.

And upon his failing to induce the individuals of our nation to accept of this money agreeably to the direction of the department, these annuities

have since been deposited in the United States' Branch Bank at Nashville, to the credit of the Treasurer of the United States. Under these circumstances we felt justified in saying that our annuities are withheld from us. Since the unconstitutional proceedings of Georgia towards our nation, our public expenses have greatly increased; consequently debts have been incurred, for the payment of which the faith of our nation stands pledged. And we trust that the President will see in this good reason for directing the annuities to be paid over to us as heretofore; for we can see no possible advantage in the Government controlling the application of these annuities contrary to the interest and desire of our nation, when they constitute a debt from the United States to the Cherokee nation; no complaints having been made to the Government by our nation against the dishonesty or misapplication of this annuity stipened by our own constituted authorities. On the contrary, they have required the agent to pay it over as usual; and, without intending any reflection, we feel justified in saying that the Cherokee people feel as much respect for, and have as great confidence in the justice and integrity of their own public men, as they can possibly entertain towards the public agents of this Government in their nation.

With great respect,
We have the honor to be,
Sir, your obedient servants,

JOHN ROSS.
R TAYLOR.
JNO. F. BALDRIDGE.
JOS. VANN.

Hon. LEWIS CASS, *Secretary of War.*

DEPARTMENT OF WAR,
February 20th, 1838.

GENTLEMEN: I have received your letter of the 14th inst., but having, as already explained to you, but little time to continue a correspondence promising no useful result, I must be brief in my answer.

All the considerations connected with your situation and prospects have been so long and so much discussed, that it seems wholly unnecessary to renew the subject. So far as regards the question specifically stated by you respecting the political situation you would occupy west of the Mississippi, the tenure of the lands, the kind of government, &c., you will find in the papers heretofore communicated from this department satisfactory explanations; and any thing further that may be necessary shall be frankly stated in any personal interviews, should there be a prospect of a satisfactory adjustment of the affair.

You are fully aware of the President's views of his constitutional duty. He considers that he has no right to arrest the laws of Georgia within the limits of that State, nor can he take any measure to procure such a result. Any possessory right, independent of jurisdiction, which you may claim, does not fall within the provisions of the intercourse act of 1802, and its supplements, and, consequently, does not present a case within the authority of the President to determine.

I have nothing to add on the subject of the annuities, but that the President's views are unchanged.

I will add that I should be very glad to meet you, and to discuss this subject, in the confident hope that an arrangement may be made which will be satisfactory to your people, and terminate all the difficulties in which they are now involved.

Very respectfully, I am,
Gentlemen, your obedient servant,
LEWIS CASS.

Messrs. JOHN ROSS, R. TAYLOR, J. F. BALDRIDGE, and JOSEPH VANN.

DEPARTMENT OF WAR,

Office Indian Affairs, February 14th, 1833.

GENTLEMEN: In answer to that part of your communication of the 28th ult. addressed to the Secretary of War, and by him referred to this office, I have the honor to state, that, of the Cherokee land reserved by the treaties of the 25th of October, 1805, and the 27th of February, 1819, and ceded to the United States, in trust, for the Cherokee nation as a school fund, there have been sold 29,828$\frac{33}{100}$ acres, as appears from the returns made from the land office at Huntsville, and that the proceeds of sale amounted, on the 31st of December last, to $45,230 62, according to information received from the Commissioner of the General Land Office; which sum is now in the Treasury of the United States, and will be vested, and the dividend or interest thereof will be appropriated, pursuant to the 4th article of the said treaty of the 27th February, 1819.

I am gentlemen, with high respect,
Your humble servant,
ELBERT HERRING.

JOHN ROSS, ESQ., AND OTHERS,
Cherokee Delegation, Brown's Hotel.

WASHINGTON CITY, *March 8th*, 1833.

SIR: The subject of intrusion on the lands of the Cherokee nation by the citizens of the United States, as you well know, is a fruitful source of unpleasant complaints. The injuries sustained by our citizens from this unlawful practice within the chartered limits of Georgia, North Carolina, Tennessee, and Alabama, have been great, and are daily increasing. And notwithstanding we have been so repeatedly assured by the department that the intruders would be removed from our lands by virtue of the intercourse act, where the State laws did not interfere with the exercise of authority on the part of the General Government, yet strange as it seems to be, it is nevertheless true that these complaints have not been made to cease by any effectual order from the department to the agent. However, when we reflect and see that the agent (Col. Montgomery,) has himself countenanced and permitted his own son-in-law, Jno. Hardwick, to reside in the nation, and cultivate Cherokee lands in the vicinity of the agency, regardless to the remonstrances of our General Council, it is a circumstance not so much to be

wondered at, that he should indulge other intruders who have only followed the example of his son-in-law. From recent information there are many white families who have removed into the nation, and are now intruding on our lands within the chartered limits of Tennessee. To these facts we would respectfully call the attention of the department, and urge that a speedy and effectual order be given for their immediate removal. Should you feel disposed to ascertain from other sources the truth of what we have stated in relation to the conduct of the agent, and the situation of John Hardwick, we would respectfully refer you to Capt. Day and Lt. Dancey, the disbursing officers who were lately stationed at the agency. We take leave further to state, that there are some individual claims for improvements abandoned on the lands ceded by the treaties of 1817 and 1819, which have never been valued and reported upon by the assessing agents. We would therefore request that you will authorize and direct the agent, or some other person, to have said claims collected and reported upon to the department, that the claimants may receive their just compensation for their improvements agreeably to the stipulation of the aforesaid treaties.

We are, very respectfully, sir,
Your obedient servants,

JNO. ROSS.
RICHARD TAYLOR.
JNO F. BALDRIDGE.
JOSEPH VANN.

The Hon. LEWIS CASS, *Sec'ry of War.*

DEPARTMENT OF WAR,
Office of Indian Affairs. March 14, 1833.

SIR: Your letter of the 8th instant, addressed to the Secretary of War, on the subject of intrusion on Cherokee land by white citizens, has been referred to this office for reply.

It cannot be denied that your complaints are well founded, and that your people have sustained injuries from the rapacity and lawless conduct of our citizens. It is, however, in some degree an unavoidable evil incident to the present condition of your tribe, and no blame is fairly attributable to the department on that account. It is due to the Secretary of War to say, that so soon as he received notice of intruders having presented themselves on your land, he gave orders for their expulsion.

These orders will now be repeated, and a military force will forthwith be despatched to the assailed parts of your country for the purpose of expelling and keeping off intruders. And orders will also be given to the district attorney of the United States to prosecute for trespass all such as may dare to return after their expulsion. You cannot consider it a misplaced assurance, and it is made with the utmost sincerity, that the department cherishes deep solicitude for the welfare of your nation, and will, to the extent of its power, endeavor to promote it.

With high respect, your humble servant,

ELBERT HERRING.

To Messrs. ROSS AND OTHERS, *Cherokee Delegates.*

☞ This letter was forwarded by mail, and directed to "John Ross, esq., principal chief of the Cherokees," Head of Coosa, Georgia.

HEAD OF COOSA, CHEROKEE NATION,
May 22, 1838.

SIR: In pursuance of a resolution of the General Council, which terminated its session on the 20th instant, at Red Clay, I hasten to transmit you herewith, for the information of the President, certain resolutions adopted by the council as an expression of its sentiments on the public affairs of this nation. In laying them before the President, you will please to permit me, through you, to assure him that the *peace and happiness* of the Cherokee people requires repose by removing the perplexing difficulties which have so long disturbed their welfare; and that whilst a course of irritating excitement is kept up, the distresses of the nation may be increased, but yet, it is evident that the object desired to be attained can never be realized by the observance of it. Should the reasonable expectation of the council be favorably regarded by the President, and all further proceedings suspended, he may rest assured that no effort on my part shall be wanting, in co-operating with the proper authorities of this nation, for the adoption of measures with the view to a final termination of all difficulties. To ensure a calm deliberation upon this important subject, it is indispensably necessary that harmony and tranquillity should prevail among the people. You will therefore please to communicate to me the determination of the President on the subject as soon as convenient.

I have the honor to be, sir,
Your obedient, humble servant,
JOHN ROSS.

To the honorable LEWIS CASS,
Secretary of War.

"Whereas the several communications embracing the correspondence between the late delegation to Washington and the honorable Secretary of War in reference to the public affairs of this nation, having been read in General Council, and the principal chief having fully stated, (in the presence of said delegation,) the several conversations had with the President and Secretary on this subject;" the following resolutions be, and are hereby, adopted as an expression of the sentiments of the council in relation thereto:

Resolved by the committee and council in General Council convened, That the position maintained by the delegation in the support of the rights of this nation be, and is hereby, approved.

Resolved, That the council view with regret the evasive and unsatisfactory manner in which the honorable Secretary has replied to the several subjects introduced before him by the delegation. The question of our national rights having been so clearly recognized and established by every department of the General Government, and as defined by various subsisting treaties, laws enacted in the spirit of those treaties, and decisions of the Supreme Court of the United States, the Cherokees cannot but feel, with deep regret and sensibility, the evil consequences arising from the oppressions by State authorities, and the entire suspension of fulfilment, on the part of the Government, of those solemn pledges so repeatedly made for their protection.

Resolved, That, under existing circumstances, the nation is in a state of duress, and that, until removed, it cannot properly exercise that freedom of deliberation and action so desirable and necessary for the final termination of present difficulties; and being convinced that the country west of the Mississippi, to which the Government has invited the removal of the nation, is such as cannot better the future prospects and welfare of the Cherokees as a nation, under the present unsettled policy of the Government in relation to the Indian tribes; and should they be compelled by the force of circumstances, contrary to every principle of justice and humanity, to leave the "land of their fathers," the council can determine no other alternative promising relief than a removal beyond the limits of the United States; but having confidence yet in the good faith of the Government of the United States, and no desire to remove west of the Mississippi, nor to leave the limits of the United States, and being solicitous to have a speedy termination of present difficulties:

Resolved, That the basis and terms of the late propositions offered by the Government being objectionable, and aware of the limited powers of the President, it is deemed inexpedient for the nation, at present, to determine, as a final resort, that course necessary to be pursued, until some further action of the ensuing Congress in relation to this important matter.

Be it further resolved, That if the President will cause all further illegal proceedings on the part of Georgia and Alabama to cease within the limits of this nation, and will suspend further proceedings through the agents of the Government, the proper authorities of this nation, with a view to the final termination of all difficulties, will adopt such measures as will bring before the General Government, at the next session of Congress, this subject, upon such fair and honorable principles as, in their opinion, justice and magnanimity will not fail to sanction.

Be it further resolved, That the principal chief be, and he is hereby, requested to transmit a copy of the foregoing resolutions to the honorable Secretary of War for the information of the President of the United States.

In General Council, Red Clay, C. N., *May* 20, 1833.

RICHARD TAYLOR, *Pt. Committee.*
Concurred: GOING SNAKE, *Speaker Council.*
Approved: JOHN ROSS, *Pl. Chief.*
Wm. Rogers, *Clk. Committee.*
A. McCoy, *Clk. Council.*

Department of War, *June* 20, 1833.

Sir: I am instructed to inform you that your letter of the 22d ultimo has been received and submitted to the President. The President considers it useless to continue any further correspondence on the subject of the Cherokee difficulties. Neither in the propositions you have transmitted, nor in the spirit in which they are dictated, does he see any hope of a change in the councils nd conduct of those who have obtained an ascendancy over the unhapp Cherokee people. The terms already offered are

extremely liberal; and it is believed they are satisfactory to the citizens of the United States, and would be so to the Cherokees, were they permitted to exercise their own judgment in the matter. No essential alterations will be made in them, and, if the event is unfortunate for your people, the fault must rest with those who have acquired their confidence, and now mislead them.

Very respectfully, I am, sir,
Your obedient servant,
JOHN ROBB,
Acting Secretary of War.

To Mr. JOHN ROSS, *Head of Coosa,*
Cherokee Nation, Georgia.

TO ALL WHOM IT MAY CONCERN:

Be it known, that John Ross, principal chief of the Cherokee nation, Richard Taylor, Daniel McCoy, Hair Conrad, and John Timson, have been nominated, and are hereby constituted and appointed, as delegates to represent said nation on a mission before the Government of the United States at Washington city, at the next session of Congress, on all subjects touching the rights and interest of the same, with the view of inducing said Government to act and decide, finally, upon the grievances of this nation growing out of the proceedings of the adjoining States in violation of existing treaties. Given under our hands in General Council, at Red Clay, this thirty-first day of October, 1833.

RICHARD TAYLOR,
President of the Committee.

Members of the Committee.

George Still,
George Blair,
Hair Conrad,
J. F. Baldridge,
Old Fields,
Richard Fields,
James Daniel,
William Boling,
Thomas Foreman
Joseph Vann,
David Vann,
John Timson,
Saml. Gunter,

WM. ROGERS, *Clerk to Committee.*

GOING SNAKE,
Speaker of Council.

Members of Council.

James Spears,
Young Glass,
Chunekah,
The Bark,
A. Campbell,
E. Duncan,
Walking Stick,
White Path,
John Watts,
Sleeping Rabbit,
George Chambers,
Tah-quoh,
Soft Shell Turtle,
Bean Stick,
Tesataskee,
James Foster,
Chuwalookee,
Charles,
John Wayne,
Situakee,
Peter, and
Sweet Water,

GEORGE LOWRY,
Asssistant Principal Chief.
GEO. M. WATERS,
MAJOR RIDGE,
Executive Council.

A. MCCOY, *Clerk to Council.*

In General Council at Red Clay, C. N.,
October 31, 1833.

Sir: We take occasion to report through you, for the information of the President of the United States, that Mr. John Ross, the principal chief of this nation, together with Messrs. Richard Taylor, Daniel McCoy, Hair Conrad, and John Timson, are delegated to represent this nation on a mission before the Government of the United States at Washington city, at the next session of Congress, "on all subjects touching the rights and interest of the same, with a view to a final termination of existing difficulties;" and, in order to meet the expenses of said delegation, we call upon you to pay over to Richard Taylor the sum of thirty-five hundred dollars out of the annuities due to this nation by treaties with the United States; and his receipt for the same will be your sufficient voucher.

Very respectfully,
Your obedient servant,
[*Signed by the President of the Committee, and Speaker of Council, and members thereof.*]

Wm. Rogers, *Clerk Committee.*
A. McCoy, *Clerk Council.*

To Colhlugh Montgomery, *United States' Agent.*

Red Clay, C. N., *October* 31, 1833.

Sir: You will please to report the within communication to the War Department, for the information of the President, without delay. It is expected that the delegation will meet at the agency on the 20th day of December next on their journey to the seat of the General Government.

Very respectfully,
Your obedient servant,
JOHN ROSS.

To Col. Hugh Montgomery,
United States' Agent.

Cherokee Agency, *December* 21, 1833.

Sir: On the reception of the resolution of the Cherokee Council, I immediately enclosed it to Mr. Herring, Commissioner of Indian Affairs, for instructions in relation to the requisition for three thousand five hundred dollars, out of the annuity due to the Cherokees, to pay the expenses of the delegation; and by the last mail I received his answer, directing me to inform you that the request of the Council to pay Mr. Taylor, one of the delegation, three thousand five hundred dollars out of the annuity money due your nation, could not be granted.

I also received by the same mail a letter from the Secretary of War, directing me to inform you that if you will furnish me with a written authority from your people to treat with the Government upon the principles which have heretofore been made known to them by him, and will state, in writing,

your determination to do so, and will then proceed to Washington and form a treaty accordingly, that your expenses will be paid by the United States.

Very respectfully,
Your obedient servant,
HUGH MONTGOMERY.

To Mr. JOHN ROSS,
Principal Chief Cherokee Nation.

WASHINGTON CITY, BROWN'S HOTEL,
February 6, 1834.

SIR: Soon after our arrival in this city, we had the honor of laying before you our credentials from the Cherokee nation, and since that time they have also been laid before the President.

Under your permission and direction, the Commissioner of Indian Affairs read, for our information, some of the reports made to the Department by Benjamin F. Curry, the superintendant of the enrolling and emigration business in our country; and it is with regret we are compelled to state that there are some things communicated in those reports respecting the authorities of the nation, and the general feeling of the Cherokee people, which are grossly incorrect, and calculated to mislead the minds of the high officers of this Government, and to produce a conviction prejudicial to the character of some of the chiefs; and perhaps it is owing to an impression thus produced that the department felt justified in directing the reply which was communicated through Mr. Robb, on the 20th of June last, to the letter of the principal chief of the 22d May, 1833, transmitting the resolutions of the General Council. We have no motive to mislead our people, much less to deceive them. Our motives are influenced by higher considerations—the welfare and happiness of our people; and no man who respects his own character can rightfully call them in question.

It is true that we have openly opposed the policy of the Government for the removal of our nation beyond the great river Mississippi, because our people were violently opposed to the measure, and it was thought that their best interests would be sacrificed by removing. At the same time, we believed that the faith of the United States was as strongly pledged for the protection of our national rights as it was possible for treaty to bind it; and relying, as we did, on the justice and magnanimity of the United States, to fulfil those engagements, we could not hesitate as to the course to pursue. Unfortunately, however, a difference of opinion arose between the President of the United States and the Cherokee nation, which illicited conflicting arguments upon the question at issue; and, finally, the decision made by the Judicial Department of this Government upon that important question was too well known to the country to have escaped the notice of the Cherokee people; yet they have experienced no relief from the decision of that grave question. On the contrary, they have painfully witnessed and felt the sad effects of the oppressive power exercised towards them by the State of Georgia, whose legislation in the first place divested them of their national rights and privileges; secondly, of enjoying the common rights of freemen; thirdly, of their public domain; and, finally, of the

individual right in the soil of their fathers, which, by their own labor and industry, they have improved and cultivated. The right of property and even the life of the Cherokee, is placed in jeopardy, and are at the mercy of the robber and the assassin. By these acts, the citizen of Georgia is licensed to come into immediate collision with the Cherokee individual, by violence if he chooses, for any and every thing that is sacred to the existence of man upon earth; and the Cherokee is denied the right of appearing before the sanctuary of justice created by law for the redress of wrongs. Without further remarks on this subject, we enclose you herewith a late act of the Legislature of Georgia as published in the public papers of that State for the information of the President. We remember, and look to the declarations of the President on a former occasion, in reference to the question of protection in the right of occupancy to the lands, and would respectfully call his attention for relief against the operation of the act herewith submitted. We now stand before the American Government as representatives of the Cherokee nation, with the view of inducing said Government to act and decide finally upon the grievances of the nation: and permit us to assure you that the resolutions which were adopted by the General Council at Red Clay, on the 20th of May last, and transmitted for the consideration of the President, contains the true sentiments of the nation. Under existing circumstances, the questions now presented for determination are, whether the existing treaties between the United States and the Cherokee nation will never be enforced? And, if not, whether we are to be regarded as free agents in the adoption of any arrangement for the termination of existing difficulties? We have received complaints from a source entitled to respect, since our arrival here, that the United States' surveyors, who are engaged in the survey of the lands ceded by the Creek nation to the United States in Alabama, bordering on our boundary, have, or are about to infringe, upon our territory by extending their surveys into our country north of the line established between the two nations; and thereby many Cherokee families are likely to be injured and turned out of doors. Against this wanton proceeding, we would most solemnly protest, and respectfully call the immediate attention of the President to the subject.

With great respect,

We have the honor to be, sir,

Your obedient servants,

JOHN ROSS.
R. TAYLOR.
DANIEL McCOY
HAIR CONRAD.
JOHN TIMSON.

To the Hon. LEWIS CASS, *Sec'ry of War.*

WAR DEPARTMENT, *February* 13, 1834.

GENTLEMEN: I have received your letter of the 6th instant, and, in answer, have to inform you that so far as the constitutional power of the President extends, he has felt it his duty faithfully to comply with all the obligations which the United States have incurred by treaty with any of the Indian tribes.

It seems to be useless at this time to review the discussions which have

heretofore taken place between your people and this department. I am satisfied that no practical advantage would result from such a course. You are perfectly aware of the views which the President has taken of his own duty; nor is there any probability of these undergoing the slightest change. The only remedy which I see for any inconveniences under which you labor, will be found in the acceptance of the propositions heretofore made you on the part of the Government. These propositions are of the most liberal character, and, if accepted, would place your people in a far better situation than they have been in for many years, or than otherwise they ever can be.

There is no intention whatever to encroach on your possessions in Alabama; and I have transmitted to the Commissioner of the General Land Office an extract from that part of your letter which relates to this subject. If any error has occurred, the Commissioner has power to apply the proper remedy, and I have no doubt but he will do it.

Very respectfully,
Your most obedient servant,
LEWIS CASS.

To Messrs. JOHN ROSS, RICHARD TAYLOR,
DANL. MCCOY, HAIR CONRAD,
JOHN TIMSON.

WASHINGTON CITY, BROWN'S HOTEL,
March 12, 1834.

HONORED SIR: The relations of peace and friendship so happily and so long established between the white and the red man by your illustrious predecessors and our beloved chieftains, induces us, as representatives of the Cherokee nation, to address you in the language of our departed sires, and in the character of children—call you father. The appellation in its original sense carries with it simplicity, and the force of filial regard. By treaty, the Cherokee nation, for divers important considerations, acknowledged the Cherokee people to be under the protection of these United States, and of no other sovereign whosoever; and stipulated that they *will* not hold any treaty with any foreign power, with individual State, or individuals of any State. And the United States, in return, gave assurances of protection, good neighborhood, and the solemn guarantee for the remainder of their lands, not ceded *forever*. From this alliance, the red man very naturally was induced to look upon the Chief Magistrate of this great nation as the guardian of his rights. Hence, the emphatic and endearing appellation "father" was bestowed on him. Under the fostering care and patronage of this Government, the arts of civilization and christianization were successfully introduced into our nation; and, from the growing intercourse of the good neighborhood between the Cherokees and the citizens of bordering States, the progress of improvement soon spread its happy influence over the whole country; thereby exhibiting clearly, by practical demonstration, the force and effects of surrounding circumstances.

It is not our purpose in this address to go into an argument on the question of the relations which the Cherokee nation sustain towards the United States, nor to discuss the merits of our rights under them, as have been recognized and established by existing treaties. The records of the several departments of this Government, as we humbly conceive, amply testify to,

and proclaims them. It is enough for us to know and say to you frankly—father—your Cherokee children are in deep distress, owing to the unnatural and very oppressive acts extended by the illegal hand of their white brethren of the State of Georgia, and other bordering States. By those enacted by Georgia, the property, the liberty, the freedom, and life of the Cherokee are placed in jeopardy, because they are left at the mercy of the white robber and assassin to be taken with impunity. No redress of wrongs can the Cherokee receive from the Georgia courts, unless the foul deed be perpetrated in the sight of a white person who may possess sufficient independence and honesty to testify to the facts in behalf of the injured person. In a word, Georgia has not only surveyed and lotteried off all the Cherokee lands among her citizens within the chartered limits of that State, but she has gone on in her legislation to act on the principle that the Cherokees are intruders upon her soil, and are liable to be expelled therefrom at her discretion; for such is the fact exhibited by the late act we laid before you, and the effects of that law have already been witnessed and felt by some of the Cherokees. Thus it is seen that solemn treaty engagements, made under the Constitution of the United States by those departed sages who once sat in the exalted chair you now fill with the Cherokee nation, have been assailed, and are about to be destroyed by a power from a quarter least to have been expected. Our territory within the limits of the other adjoining States are also likely to be overrun by intruders from the several States, as there are already numerous trespassers on Cherokee lands in those sections of the country. Each State being a party, bound by the constitution of the Union, must equally be so in relation to the treaties made under its provisions. The power of making treaties having been conceded by the States to the General Government, the Cherokee nation established its alliance with the United States alone, and have ever since faithfully observed and never departed therefrom. It is reasonable to suppose, had Georgia not conceded this power to the General Government, and the Cherokees had preserved their right of treating with whatsoever power they pleased, treaties at that early day might have been entered into by the Cherokee nation with Georgia upon as favorable principles as those made with the United States. However, be this as it may, the Cherokees can now only hang their hopes on the magnanimity and good faith of the United States. And in order to relieve our suffering people from their present distressed situation, we feel it to be our duty to bring the subject immediately before your serious consideration in such a manner, as, in our judgment, the principles of honor and justice will sanction.

The great body of the Cherokee people having refused and will never voluntarily consent to remove west of the Mississippi. And with the view of harmonizing the good feeling of all the interested parties, and to put an end to the perplexing difficulties which have so unhappily brought distress upon our people, we most respectfully call your particular attention to the following point: Should the Cherokee nation agree to cede to the United States for the use of Georgia a portion of its territory, will the President agree to have the laws and treaties executed and enforced for the effectual protection of the Cherokee nation on the remainder of their territory? And should you be disposed to enter into an arrangement on this basis, you will please to signify it as early as practicable. To avoid misunderstanding and

waste of your time by a personal interview, we have deemed it most proper to communicate these sentiments in writing; and we should be gratified, if possible, to receive your reply from under your own signature.

With great respect,

We have the honor to be, sir,

Your obedient humble servant,

JNO. ROSS.
DANL. McCOY.
R. TAYLOR.
HAIR CONRAD.
JOHN TIMSON.

To his Excellency, ANDREW JACKSON,
President of the United States of America.

WAR DEPARTMENT, *March* 13, 1834.

GENTLEMEN: Your letter of the 12th instant addressed to the President of the United States, has been referred to this department.

In answer, I have to state to you as I have done before, that little practical advantage would result from reviving the discussions which have been heretofore had between your people and this department. The President sees and regrets the difficulties in which you are placed, and, as far as his constitutional authority extends, he is willing to afford you such relief as it may be in his power to grant.

The question respecting your political condition and rights in those States which have extended their laws over your people, is one which is beyond the reach of the President. The most liberal offers have been made you as an inducement to exchange your present residence for one west of the Mississippi, and no doubt remains but this is the best, and in fact the only remedy to which you can look forward. I am instructed by the President again to say, that he is willing to extend to you the most liberal terms, and to make such an arrangement as will be just in itself, and ought to be satisfactory to you, for the termination of your present embarrassments and for your removal west of the Mississippi. These embarrassments must increase, as Tennessee has extended her laws over you, and North Carolina may do the same. The President is exceedingly anxious that an end should be put to the difficulties which are pressing upon your people, and which will continue to oppress, and ultimately destroy them, unless they are terminated by a removal.

Very respectfully,

Your most obedient servant,

LEWIS CASS.

To Messrs. JOHN ROSS, DANL. McCOY,
R. TAYLOR, HAIR CONRAD,
JOHN TIMSON, *Washington City.*

WASHINGTON CITY, BROWN'S HOTEL,
March 28, 1834.

HONORED SIR: We have received, through the War Department, a reply to the communication which we had the honor to address you on the 12th

instant, disclaiming, on your part, all right of interference with the question of our political condition and rights, within the limits of those States, which have extended their laws over our people. And the honorable Secretary has thought proper to glance over again the offers which have been made our nation as an inducement to exchange our present residence for one west of the Mississippi. It is enough for us to repeat that our nation have entirely disagreed in opinion with the Department, in reference to the view taken of the liberality of those offers. The honorable Secretary, however, has informed us, that you have instructed him to say to us, that you are willing to extend to us the most liberal terms, and to make such an arrangement as will be just in itself, and ought to be satisfactory to us, for the termination of our present embarassments, and for our removal west of the Missisippi. We have already assured you, with the utmost sincerity and truth, that the great body of our people have refused, and will never voluntarily consent to remove west of the Mississippi; and it is on this grave question rests the great difficulty. We cannot, and dare not, lose sight of our political rights which have been recognized and established by the laws and treaties of the United States, for it is on them solely that our security of protection hang; and from the peculiar circumstances of the painful grievances under which our people labor, we were induced to submit, for your serious consideration, the suggestion which we had the honor of laying before you. And now, after further reflection on this momentous question, we have determined once more to address you, and present the subject in another view, for your further determination; and we would entreat you, by every consideration of honor and truth, to be assured that, in thus submitting this question, we are influenced solely by a desire to secure the permanent welfare and happiness of our people, who dearly love the land of their fathers, and are devotedly attached to the Government of the United States Feeble as the Cherokees are, and surrounded by a nation so powerful as the United States, we cannot but clearly see, that our existence and permanent welfare as a people, must depend upon that relation which will eventually lead to an amalgamation with the population of this great republic; and as the prospects of securing this object collectively, in our present location in the character of a Territorial or State Government seem to be seriously opposed, and is threatened by the States which are interested in their own aggrandizement, and as the Cherokees, having refused and will never voluntarily consent to remove west of the Mississippi, we are constrained, in the most respectful manner, to present the following questions for your decision.

Will you agree to enter into an arrangement, on the basis of the Cherokees becoming prospectively citizens of the United States, provided the nation will cede to the United States a portion of its Territory for the use of Georgia? And will you agree to have the laws and treaties executed and enforced for the effectual protection of the nation, on the remainder of its Territory for a definite period, with the understanding that, after that period, the Cherokees are to be subjected to the laws of the States within whose limits they may be, and to take an individual standing as citizens thereof, the same as other free citizens of the United States, and to dispose of our surplus lands in such a manner as may be agreed upon. Such an arrangement as this, would put an end to all conflicting interests, and secure to the Cherokees, time to prepare for the important change of their condition, and enable them, by means of education, to defend their indivi

dual rights as free citizens against any fraud or violence before the proper tribunals of the country. It is no more than reasonable and just, that ample time should be extended to the Cherokee people to prepare for so important a change of their political character, in their native land. No nation of people, emerging from the natural state of man, can ever prosper by an untimely amalgamation with a civilized and refined community. When we look on our own individual condition, and review the circumstances which have placed us in the scale of civilized life, above the condition of others of our fellow countrymen, we cannot but see that they and their children are all equally capable, under similar circumstances, to rise to the same degree of elevation. It is, therefore, our imperious duty to endeavor to afford them all the advantages possible for their general improvement. Georgia, and the other interested States, cannot rightfully oppose such an arrangement, and there can be no doubt they would readily acquiesce in it. The great cause of contention will have been removed, by making certain an object which, under existing treaties at this time to them, is uncertain; and finally, a peaceable and an honorable adjustment of all conflicting interests will have been accomplished. Twenty years have now elapsed since we participated with you in the toils and dangers of war, and obtained a victory over the unfortunate and deluded red foe at Tehopekah, on the memorable 27th March, 1814; that portentous day was shrouded by a cloud of darkness besprinkled with the awful streaks of blood and death. It is in the hour of such times alone, that the heart of man can be truly tested and correctly judged. We were then your friends, and the conduct of man is an index to his disposition. Now, in these days of profound peace, why should the gallant soldiers, who, in time of war, walked hand in hand through blood and carnage, be not still friends? We answer that we are yet your friends, and we love our people, our country, and the home of the childhood of our departed sires. We have ever enjoyed the rights and liberties of freemen, and God forbid that we should ever live in vassalage to any power. And if we are too weak to live as freemen, it is easier for freemen to die than live as slaves. To afford our people full privilege and satisfaction, if the United States would furnish the necessary means, and our nation think it proper to appoint an exploring party for the purpose of examining all the countries beyond the Mississippi river, it may be done in addition to the arrangement which we have suggested.

We have the honor to be, sir,
Very respectfully,
Your obedient humble servants,

JOHN ROSS.
RICHARD TAYLOR.
DANIEL McCOY.
HAIR CONRAD.
JOHN TIMSON.

To his Excellency, ANDREW JACKSON.
President of the United States

A NOTE TO THE PRESIDENT.

The compliments of the Cherokee delegation to the President of the United States, and beg leave to call his attention to the communication

which they had the honor to address him on the 28th of last month, and to inquire how soon may they expect his definite reply to the same, as they are particularly desirous to terminate the business of their mission with the Government as soon as practicable, that they may return home. Respectfully submitted in behalf of the delegation, by

JNO. ROSS.

BROWN'S HOTEL, *Thursday, April* 17, 1834.

WAR DEPARTMENT, *April* 18, 1834.

GENTLEMEN: The letter to which you referred, in conversation yesterday, as having been addressed to the President on the 28th ultimo, has not been received at this department, but your note of yesterday to the President has been transmitted here with his instructions to inform you that my answer of the 13th ult. to your letter of the preceding day contains his views of your affairs generally; he has nothing to add thereto, except to say, that if you have any propositions to make, on the grounds heretofore offered to you connected with your removal, it shall be received and considered without delay.

Very respectfully,
Your most obedient servant,

LEWIS CASS.

To Messrs JOHN ROSS, DANL. MCCOY,
R. TAYLOR, HAIR CONRAD,
JOHN TIMSON.

WASHINGTON CITY, *April* 29, 1834.

SIR: Your letter of the 18th instant informs us that our communication of the 28th ultimo to the President, has not been received at that Department, but that our note of the 17th instant to him, has been transmitted there, with his instructions to inform us that your answer of the 13th ultimo, in reply to ours of the preceding day, contains his views of our affairs generally; and that he has nothing to add thereto, except to say that, "if we have any proposition to make, on the grounds heretofore offered to us, connected with our removal, it shall be received and considered without delay." We deem it to be proper and necessary to transmit you herewith a copy of our communication of the 28th of last month to the President, from which you will discover that it does contain suggestions which looks to an arrangement for the adjustment of the difficulties created by the political measures taken against our nation; and the basis of which, under existing circumstances, is, in our judgment, the only one on which an arrangement can be made to shield the Cherokee people from destruction, as it would afford us an opportunity to obtain correct information from personal observations by exploration of all the countries west of the Mississippi river. And the nation being left free to act, for its welfare and future destiny after full information on that subject, would then be prepared to determine finally whether it will be best to remove or to remain. The Govern-

ment ought not, and must not, expect from our nation, the adoption of any measure that will plunge our own people into ruin. We see and know the unhappy situation into which our red brethren, the Creeks and Chickasaws, have placed themselves, by entering into a premature treaty, for the want of light and knowledge. The Cherokee people will never consent to sell their freedom, nor dispose of their heritage in the soil which moulders the bones of their ancestors, for any consideration if it can be avoided.

The basis on which the last Chickasaw treaty was made, recognizes a principle in regard to the right of soil in the Indian tribes, which have been sanctioned by all former treaties, and confirmed by each branch of this Government. And there is a passage in the 5th article of the treaty of 27th February, 1819, whereby the faith of the United States is pledged by the stipulation that "the United States shall remove all white people, who had then, or may thereafter, intrude on the lands reserved for the Cherokees, and to proceed against them according to the provisions of the act passed 30th March, 1802, entitled 'An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.'" Further, in the act passed on the 28th May, 1830, entitled 'An act to provide for an exchange of lands with the Indians, residing in any of the States or Territories, and for their removal west of the Mississippi,' there is a proviso in the 7th section thereof, in these words, "that nothing in this act contained, shall be construed as authorizing or directing the violation of existing treaty between the United States and any of the Indian tribes;" here then, it is clearly and unequivocally admitted by the General Government, that the existing treaties ought not, and are not, to be violated. The treaty of 1819 being then and now, is an existing treaty, as well as other preceding ones; the United States are, therefore, imperiously bound in good faith to have them executed. Under every view we have been enabled to take of the subject, we can see no reasonable or just ground why the President should refuse to adjust our embarrassing difficulties, on the basis we have submitted for his further consideration. The compact of 1802, between the United States and Georgia, being a contract to which our nation is not a party, and its fulfilment resting on the contingency that the United States shall, at their own expense, extinguish, for the use of Georgia, as early as the same can be peaceably obtained, on reasonable terms, the Indian title, &c, most clearly shows that the agreement is conditional; and that there can be no justification for any departure from its import to affect the rights of our nation. Our people being well informed in regard to the country to which the Government has so pressingly urged our removal, and they are fully convinced that it is not such an one as we can ever live in permanently, and there enjoy the blessings of prosperity and happiness. Some of our brethren from that region, who are now in the city, have had the candor to assure us, that unless the Government would lop off a district of country from the Territory of Arkansas for our accommodation, in case of our removal, that the country already laid off there for them, would not be adequate to afford us all comfortable residences,&c.; and that there are no other lands within the reach of the Government to give in accession to their country which would be worth exchanging for. And have we not already been distinctly told that the Government cannot consent to curtail Arkansas of its Territorial boundary? Under all these circumstances should the Government still persist in refusing to adjust our difficulties, on any other basis

than that of a removal, we cannot but feel and believe that its object is to force the Cherokee people out of the limits of the Territorial boundary of the United States.

With great respect,
We have the honor to be, sir,
Your obedient humble servants,
JOHN ROSS.
RICHARD TAYLOR.
DANIEL McCOY.
HAIR CONRAD.
JOHN TIMSON.

To the Hon. LEWIS CASS,
Secretary of War.

DEPARTMENT OF WAR,

Office of Indian Affairs, May 1, 1834.

GENTLEMEN: I have to acknowledge the receipt of two communications from you, one dated March 28th, addressed to the President, and the other dated April 29th, and addressed to the War Department; and, in answer, to inform you that the difficulties heretofore experienced and explained to you, and which have prevented the adjustment of your unsettled affairs in your present position, yet exist in full force.

The President does not see the slightest hope of a termination to the embarrassments under which you labor, but in your removal to the country west of the Mississippi; and he thinks that holding out to you any other expectation would be delusive.

It is unnecessary to enter upon the considerations connected with your present embarrassing condition. These have been so often the subject of discussion, that the views of the President, and the obstacles in the way of an adjustment without a change of position, are fully known to you. And I refer you to your correspondence with this department for a retrospect of the whole matter.

I assure you, however, as I have done before, that there is every disposition to grant you liberal terms, and that the United States will faithfully compensate you for any just demands you may have against them.

Very respectfully,
I am, gentlemen,
Your obedient servant,
ELBERT HERRING.

To Messrs. JOHN ROSS AND OTHERS,
Cherokees in Washington.

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